

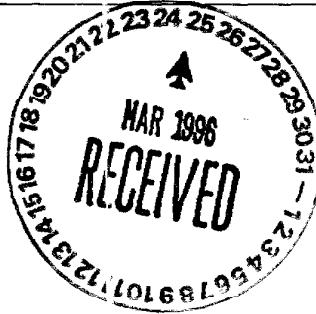
THE NAVAJO NATION

ALBERT A. HALE
PRESIDENT

THOMAS E. ATCITTY
VICE PRESIDENT

March 19, 1996

Attn: David S. Guzy
Minerals Management Service
Royalty Management Program
Rules and Procedures Staff
Denver Federal Center, Building 85
P. O. Box 25165, MS 3101
Denver, CO 80225-0165



RE: Advance Notice of Proposed Rule
Valuation of Oil from Federal and Indian Leases
60 Federal Register 65610, dated December 20, 1995

Dear Mr. Guzy:

The Navajo Nation (Nation) welcomes the opportunity to submit the following comments on the Minerals Management Service's (MMS) Advanced Notice of Proposed Rulemaking (Notice) on crude oil valuation for federal and Indian royalty purposes.

In its Notice, MMS requests input on potential alternatives to posted prices for purposes of valuing federal and Indian crude oil. For the record, the Navajo Nation is a active member of the State and Tribal Royalty Audit Committee (STRAC) and provided its input into the comments submitted by STRAC in its letter dated March 18, 1996.

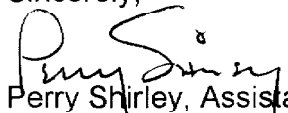
In addition to the STRAC comments, the Nation would like to stress to the MMS that the Federal Government must recognize its trust responsibility obligations in its consideration to amend its regulations regarding the valuation of crude oil produced from Indian leases. The Federal Government's Trust Responsibility to Indian Nations arises from Indian Treaties, Federal statutes, Executive Orders, legal decisions, and the historical relations between the United States and Indian Nations. In a broad sense the Trust Responsibility derives from the United States' unique legal and political relationship with Indian Nations. In the narrow sense, the Trust Responsibility defines the precise legal obligations owed to Indian Nations, by the Federal Government in managing the property and resources of Indian Nations. The Trust Responsibility imposes on the Federal Government the duty to remain faithful to, and advance the interest of Indian Nations.

The Nation urges MMS to take into highest regard, its moral obligation to protect the crude oil resources of Indian Nations in its promulgation of proposed regulations to eliminate any

reliance on posted prices in the valuation of crude oil. When faced with two reasonable methods of calculating oil and gas royalties owed to an Indian Nation, the Secretary of the Interior must choose the alternative that provide the greatest economic return to the Indian Nation. Jicarilla Apache Tribe v. Supron Energy Corp., 728 F.2d 1555, 1567 (10th Cir. 1984), dissenting opinion adopted as the majority opinion adopted as the majority opinion as modified, 782 F.2d 855 (10th Cir. 1986) (en banc), cert. denied, 479 U.S. 970 (1986). The MMS is indeed faced with an alternative valuation method other than the posted price method which the oil industry has been utilizing since the mid-1980s. It must, therefore, amend its regulations to allow it to choose the method which will provide the greatest economic return for Indian resources. That alternative method involves the capturing of bonuses being paid on posted prices which reflects the true market value, and in many cases, is not being treated as royalty bearing.

The Navajo Nation is available to assist MMS in carrying out the recommendations provided by STRAC. If you have any questions, please contact me at (520) 871-6340.

Sincerely,



Perry Shirley, Assistant Director
Minerals Department
The Navajo Nation

XC: Melvin Bautista, Executive Director, Division of Natural Resources, The Navajo Nation
Akhtar Zaman, Director, Minerals Department, The Navajo Nation